

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NATALIE REESER,

Plaintiff,

v

Case No. 2:14-cv-11916-GCS-MJH
Hon. George Caram Steeh
Magistrate Judge Mona K. Majzoub

**HENRY FORD HEALTH SYSTEM
d/b/a HENRY FORD HOSPITAL,**

Defendant.

MILLER COHEN, P.L.C.

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Adam C. Graham (P79361)
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PLAINTIFF'S EMERGENCY MOTION TO QUASH SUBPOENAS

NOW COMES the Plaintiff, NATALIE REESER, by and through her attorneys, MILLER COHEN, P.L.C., with her Motion To Quash Subpoena(s), pursuant to Federal Rule of Civil Procedure 45(d)(3) and states as follows:

1. On or about April 29, 2016, Defendants issued Subpoenas requesting to depose an AT&T Custodian of Records and a Sprint Custodian of Records (*Exhibits A and B*). According to these subpoenas, the AT&T Custodian of Records and the Sprint Custodian of Records will be deposed May 5, 2016.

2. On or about December 17, 2014, this Court entered a Stipulated Order extending discovery in this matter to April 6, 2015 (*Exhibit C*).

3. On or about January 19, 2016, this court entered the parties' Final Pretrial Order (*Exhibit D*). **There were numerous custodians of records listed as witnesses. However, nowhere does Defendant list the custodians of records for Sprint or AT&T as witnesses.**

4. In *Gonzalez Prod. Sys., Inc. v. Martinrea Int'l Inc.*, No. 13-CV-11544, 2015 WL 869378, at *3 (E.D. Mich. Feb. 27, 2015) (attached as *Exhibit E*), the court found that there was not good cause to reopen discovery to allow a *de benne esse duces tecum* subpoena, even when trial in that case was not scheduled to occur for more than six months. Here, trial is set to begin in approximately one week. Clearly, there is no good cause to reopen discovery at this point.

5. Each of Defendant's subpoenas was filed significantly after the stipulated to date for the close of discovery and is therefore untimely. Because Defendant selected and stipulated to the date for the close of discovery, Defendant had ample time and opportunity to make document requests and depose witnesses prior to the close of discovery. Despite the time and opportunity to depose these individuals prior to the close of discovery, Defendant elected to file subpoenas after the close of discovery and on the eve of trial.

6. Defendant's witness list in the Final Pretrial Order fails to disclose these custodians as witnesses and, therefore, they would not be permitted to testify at trial. There is no purpose in gathering testimony in a deposition where the testimony cannot be presented at trial.

7. Defendant's efforts to schedule these depositions are part of a larger effort to distract Plaintiff's counsel from trial preparation a week before trial in this case is to begin. This effort includes three subpoenas, two medical authorizations, and a motion to strike damages all sent to Plaintiff within the last week. Plaintiff should be permitted to prepare for trial instead of being forced to waste time to respond to untimely requests.

8. Defendant's untimely April 29, 2016 subpoenas are both unduly burdensome and therefore should be quashed in accordance with Federal Rule of Civil Procedure 45(d)(3).

WHEREFORE, and for the above-stated reasons, Plaintiff requests that Defendant's September April 29, 2016 subpoenas be quashed.

Respectfully submitted,

MILLER COHEN, P.L.C.

By: /s/ Adam C. Graham

Adam C. Graham (P79361)

Attorneys for Plaintiff

600 W. Lafayette Blvd., 4th Floor

Detroit, Michigan 48226

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Dated: May 2, 2016

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**BRIEF IN SUPPORT OF PLAINTIFF'S
EMERGENCY MOTION TO QUASH SUBPOENAS**

In support of her Emergency Motion to Quash Subpoenas, Plaintiff relies on the facts, arguments and authorities set forth in the accompanying Motion.

Respectfully submitted,

MILLER COHEN, P.L.C.

By: /s/ Adam C. Graham

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Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on *May 2, 2016*, the foregoing document was electronically filed by the undersigned's authorized representative, using the ECF system, which will send notification of such filing to all parties of record.

Respectfully submitted,

MILLER COHEN, P.L.C.

By: /s/ Adam C. Graham

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